

**BRIGHAM CITY PLANNING COMMISSION MEETING
TUESDAY, OCTOBER 21, 2008 – 6:30 PM
BRIGHAM CITY COUNCIL CHAMBERS**

PRESENT:	Joan Peterson	Chairperson
	Barbara Poelman	Vice Chairperson
	Lynda Berry	Commissioner
	Deon Dunn	Commissioner
	Paul Fowler	Commissioner
	Roger Handy	Commissioner

ALSO PRESENT:	Ruth Jensen	City Council Liaison
	Mark Bradley	City Planner
	Eliza McGaha	Secretary

EXCUSED:	Reese Nielsen	Commissioner
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AGENDA:

WORK SESSION – AGENDA REVIEW

REGULAR MEETING

PLEDGE OF ALLEGIANCE

APPROVAL OF WORK SESSION MINUTES AND REGULAR MEETING MINUTES

PUBLIC COMMENT (*Per Utah Code, will receive input only, no decision can be made*) for items not listed on the agenda.

PUBLIC HEARING ² / APPLICATION #3054 / MACE SUBDIVISION – PRELIMINARY PLAT / 450 WEST 1200 SOUTH / BOB THURGOOD

PUBLIC HEARING ² / APPLICATION #3074 / AMENDMENT TO TITLE 29 ZONING ORDINANCE BY ADDING PARAGRAPH B TO CHAPTER 29.01.050 CONFLICT / PAUL MORRIS

PUBLIC HEARING ² / APPLICATION #3075 / AMENDMENT TO TITLE 25 SUBDIVISION ORDINANCE BY ADDING PARAGRAPH B TO CHAPTER 25.01.03 FINAL PLAT REQUIRED BEFORE LOTS MAY BE SOLD / PAUL MORRIS

CONTINUATION OF PUBLIC HEARING ² / APPLICATION #3037 / CLYDE PRICE SUBDIVISION PRELIMINARY PLAT / 671 & 675 SOUTH MAIN STREET / CLYDE PRICE

CONTINUATION OF APPLICATION #3058 / CHANGE OF ZONE FROM MU-160 TO R-1-10 / 700 NORTH HIGHLAND / JOHN W. PARSON

DISCUSSION:
APPLICATION #3008 / CONDITIONAL USE PERMIT – CHAD THOMPSON

REGULAR MEETING:

Barbara Poelman opened the regular meeting at 6:30 p.m. Paul Fowler led the Pledge of Allegiance.

APPROVAL OF WORK SESSION MINUTES AND REGULAR MEETING MINUTES:

MOTION: A motion was made by Lynda Berry to continue the approval the October 07, 2008 minutes until the next meeting. The motion was seconded by Roger Handy and passed unanimously.

PUBLIC COMMENT (*Per Utah Code, will receive input only, no decision can be made*):

Darlene Wyatt came forward and stated that she questioned why she was here as their concerns have not been addressed by the City. She read from previous minutes regarding the Chad Thompson project where Mr. Thompson had stated that he was meeting and exceeding what was required. She stated that she felt that Mr. Thompson was not meeting or exceeding anything and not one of their concerns had been addressed in a positive manner. The plans that were presented were changed to make it so it was less appealing to them as neighbors.

PUBLIC HEARING ² / APPLICATION #3054 / MACE SUBDIVISION – PRELIMINARY PLAT / 450 WEST 1200 SOUTH / BOB THURGOOD:

MOTION: A motion was made by Roger Handy to open the public hearing for application #3054. The motion was seconded by Barbara Poelman and passed unanimously.

Bob Thurgood came forward and stated that the majority of the development is located in Perry. A meeting was held with the Joint Advisory Board where the proposed street was discussed and it was recommended that it go before each Planning Commission. The Perry Planning Commission heard the proposal and approved the preliminary plans for this development. He explained that the project is planned to be done in two different phases. He pointed out the areas for phases one and two of the development. The road alignment is the most important thing to be considered. The road will be paved and all the improvements put in as part of phase one; the north side of the street is in Brigham City and the south side is in Perry, the part that goes to Highway 89 will be in phase two. There is an issue with storm water that is still being negotiated and Mr. Thurgood said he felt like that could be resolved.

MOTION: A motion was made by Barbara Poelman to close the public hearing for application #3054. The motion was seconded by Lynda Berry and passed unanimously.

Mr. Bradley stated that part of the condition of approval is that there be a municipal services agreement that is entered into by the two communities identifying the services that are to be done and by which city. That agreement is to be in place prior to the recording of the plat.

Mr. Fowler asked if the other questions in the Staff recommendations would be answered. Mr. Bradley replied that the services agreement would address those questions. Brigham City purchased the Tanaguchi property to ensure that the road system would work. The sale of those remaining parcels are to help pay for the improvement of that segment of road. The sale of property lies at the City Council level. Mr. Bradley said he did not have the details on the funding.

MOTION: A motion was made by Barbara Poelman to forward to the City Council with a recommendation to approve application #3054 preliminary plat with the stipulation that it must comply with the Staff evaluation with the understanding details are to be further resolved with a municipal services agreement between the Cities, that application fees are to be

paid by the applicants, it must comply with Chapter 25 Subdivisions, must comply with Chapter 29 Zoning and the municipal services agreement between Brigham City and Perry City to address 1200 South Street which will be approved by both City Councils and signed by both Mayors; based on the findings of fact that such use will not under the circumstances of the particular case be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity and the application complies with the General Plan of Brigham City. The motion was seconded by Roger Handy and passed unanimously.

PUBLIC HEARING ² / APPLICATION #3074 / AMENDMENT TO TITLE 29 ZONING ORDINANCE BY ADDING PARAGRAPH B TO CHAPTER 29.01.050 CONFLICT / PAUL MORRIS:

Mr. Bradley explained that the next two applications are tied to the same request by the applicants to amend the text language in the City zoning and subdivision ordinances to allow Brigham City to enter into a development agreement, which is a contract between a developer and the City. The language suggested by the applicant is referenced to the Utah Municipal Code which talks about purposes and general land use authority. Mr. Bradley said that as both applications are tied together, the public hearing could be opened to discuss both items and then separate motions made for each item. The applicant will reference the State code to identify how development agreements are an acceptable land use tool for cities to enter into. A development agreement may contain, without limitation, vesting of zoning and uses, site plan and subdivision approval, and recording processes; a development agreement would identify those processes at a future date and would have to be in compliance with the State code. As the City is looking at development agreements, they provide allowance for a particular developed site to be able to have unique standards applied to it, which is similar to a planned development project.

The State code mandates that all City ordinances, resolutions, and codes comply with the State code. Mr. Bradley stated the City Attorney, Kirk Morgan, mentioned that this language would not need to reference that it needs to be in compliance with State code. The language states that once a development agreement is entered in, it would be the document that would regulate the development rather than the general commercial standards. A development agreement is recorded with the land so if developers of the project are changed, the agreement is tied to the land; a time frame can also be placed in the agreement. When a development agreement is tied to the land, it provides some protection rights and financial guarantee, as ordinances and zoning can change over time.

Paul Morris came forward and stated that he was representing the land owner in the development. He said while this is not an application for a specific development, he gave the context of why they are asking for this change. He explained that they own the property off of 1100 South by the railroad tracks across from 1200 West. There are 84-acres there, in an L-shape, and 45-acres in Perry City for a total of about 130-acres. They are interested in developing a commercial development that is fully in compliance with the General Plan, current zoning ordinances, and processes. Brigham City did a plan with Perry City that calls for big box retail in that general area with design guidelines that were approved September 2007. Mr. Morris said they had gone through those design guidelines and they think they are terrific and they are prepared to comport with them. He said they are trying to get the big box, restaurants, banks, and a hotel for a really nice development they call Upland Square. They have spent a lot of time working on it including dealing with the wetlands, designing it and organizing it.

Mr. Morris stated that one of the challenges that is found when trying to get big box retail such as Lowe's, Home Depot, and Costco type development, is that they only want the best-of-the-best projects. He said they have spent a lot of time on this land looking at what made sense and meeting with the City Staff and the City Council in trying to understand if they were going in the right direction and they were told to please do this type of development. At a conference this year in Las Vegas, he

said the big boy retailers commented, in regards to this Brigham City development project, that they liked the current zoning but asked where the development agreement and vesting were and how they would know they can get through the process in a timely manner as they compare the Brigham City project to the other projects that they are looking at in the Western United States. Mr. Morris stated that they have been looking at a mechanism for the best way to do this.

Mr. Morris explained that development agreements started in Utah, with cities and counties, about 15-years-ago but the law was changed about 5-years-ago to specifically recognize the right to do development agreements and recognize the value of them. A number of cities, including Brigham City, are new to development agreements but there are a number of cities that use them extensively such as West Valley City. He said he used to be a local government official and did a lot of this type of work for a lot of years. He said they like development agreements because they lock in the developer to create the development to look like what the City's design guidelines have outlined and also lock in the City to ensure that the rules will not change on the developer. He said they are asking to change the ordinance to recognize the ability to do a development agreement.

Mr. Morris commented that if the Planning Commission recommended to the City Council to approve the proposed language addition, it would allow for development agreements but does not commit the City to actually do a development agreement. He said development agreements are put in line with zoning as one of the powers listed with zoning and the other ordinances but is not subservient to zoning; it is one of the ways to deal with density, land use, controls and those types of things. Development agreements can be more labor intensive on City Staff to put together. This particular development would be relatively easy as the design guidelines are already established for this area. Mr. Morris suggested choosing 40-acres or more as the acreage threshold for doing development agreements so the City would not be over burdened by doing development agreements for small projects. He said they are proposing this same thing to Perry City. The actual development agreement locks in the commercial zone, density and the process.

Mr. Morris explained, in regards to knowing the size of the desired project, one of the problems with the subdivision ordinance is that with big box retail it is unknown how large of a lot size each user will want to have. In West Valley City they have been very successful in coming up with a streamlined subdivision process. They have created an area exactly like this called Lake Park and West Ridge with 500-acres that is now developed and is a first class, class A, space that has worked out very well; Discover Card and Rocky Mountain Power are a couple of businesses in that area. The process involves a subdivision plat with a dedicated main street that goes into the project so it is known where the street will be and where the utilities will go. From there the sale of property is negotiated by metes and bounds. The site plan will still have to go through the review process and meet all of the requirements that are in the development agreement such as the configuration, parking, landscaping and such that are part of the design review. The point is to get the process done in a matter of weeks rather than months. If the area is subdivided before hand, it makes it harder for users who may want to have a lot that is different than the sizes that have already been determined.

Mr. Morris stated that their request is that the Planning Commission consider approving the change to the zoning ordinance language to allow for a development agreement and also the subdivision ordinance language to allow for a streamlined subdivision process. He said they are asking for the same changes in Perry and it is hoped to have two development agreements that are consistent and adopt the same design guidelines.

It was clarified that the development agreement does not replace the City's authoritative role. City Staff would still have to review and give a site plan approval verifying that all the requirements have been met in the ordinances as well as the development agreement; when that is done, a certificate is signed and then they can move forward to get a building permit. The design guidelines are incorporated in the agreement to ensure they are met. In regards to design, Mr. Morris gave an example that what a

Costco, Sam's Club, Lowe's or Home Depot looks like is already established by those users, but the design guidelines can be met with enough flexibility as to not dictate to such users what their establishment's look and feel is required to be.

MOTION: A motion was made by Roger Handy to open the public hearing on applications #3074 and #3075. The motion was seconded by Barbara Poelman and passed unanimously.

There was no public comment.

MOTION: A motion was made by Roger Handy to close the public hearing on applications #3074 and #3075. The motion was seconded by Barbara Poelman and passed unanimously.

Mr. Fowler commented that he thought it was a good idea but it seemed the request is incomplete in that there should be some language that should go with it. Mr. Bradley said this group had gone to the City Council to discuss allowing the City to consider development agreements and started the process of amending the text of the ordinances. Staff met with the City Attorney, Kirk Morgan, to make sure that the language in this request was legally appropriate and consistent with State law. Mr. Bradley stated Mr. Morgan said that he is supportive with the language to allow for a development agreement but as far as whether the language is legally sufficient, he would like the procedural details worked out. It does not necessarily need to be in the language in the ordinance but could be done by a policy adopted by the City defining who would draft the development agreement, who would review it, and who would make recommendation to the City Council as the City Council will be the adopting party. Mr. Morgan is comfortable with adding language to the City codes to allow for development agreements but he is uncertain with what Staff, the Planning Commission and the City Council want as far as defining the procedure.

Mr. Bradley suggested that language could be added to explain that process and see if City Council is comfortable with that or an approval to the text amendment could be recommended to the City Council subject to a policy being adopted to address the procedural process of entering into an agreement. He said Mr. Morgan would be satisfied with covering those bases. A lot of cities tie their developments to development agreements to ensure that certain things are getting done. In Ogden City the new McKay-Dee Hospital, the Midtown Health Clinic, and other developments were done by development agreements. Ogden City sent a statement to Mr. Bradley which said their basic concept is that while a use may make sense at a specific location, if it were not for the agreement that limits the use, the property would not be rezoned. In Midvale, they had two former super fun sites with master developers as well as subdevelopers that were bound by a master development agreement with one project with 350-acres and another with 250-acres. They have also done development agreements on smaller P.U.D.s to materialize design and architecture. Mr. Bradley said that as long as the procedural process of how the agreement is entered into is addressed, whether by language into the ordinance or a policy adopted by the City, Staff is comfortable to proceed with a recommendation.

MOTION: A motion was made by Roger Handy stating that he thought this to be a good idea and helpful to the City if the City does it's homework with these agreements. He said he did not think it would be appropriate to pass this before they have a procedure set up by the City whereby development agreements would be approved. His personal feeling is because development agreements really allow for the waiver of some zoning laws in certain cases; the procedure itself should be in the ordinance so it is apparent to the public what is taking place. A policy could be put in but policies can be changed anytime after the first policy is adopted. He stated his motion to be that they postpone action on these

requests until the next regular meeting and that the Staff be asked to come back, at that time, with additional language in the text of the development agreement section, the language that will outline procedure for the City's approval of development agreements. The motion was seconded by Barbara Poelman.

Discussion: Ms. Berry asked if the cities previously discussed as having done development agreements had presented a sample of the language they used in those agreements, such as a sample document. Mr. Bradley replied that he had looked at West Valley's online, which is a fairly small paragraph that allows them to enter into a development agreement and does not talk about the process. Mr. Fowler commented that the idea certainly seemed appealing and said he also would like to see a procedure on how they would do it.

The motion passed unanimously.

PUBLIC HEARING ² / APPLICATION #3075 / AMENDMENT TO TITLE 25 SUBDIVISION ORDINANCE BY ADDING PARAGRAPH B TO CHAPTER 25.01.03 FINAL PLAT REQUIRED BEFORE LOTS MAY BE SOLD / PAUL MORRIS:

See previous motion.

CONTINUATION OF PUBLIC HEARING ² / APPLICATION #3037 / CLYDE PRICE SUBDIVISION PRELIMINARY PLAT / 671 & 675 SOUTH MAIN STREET / CLYDE PRICE:

Daniel Watkins came forward and stated that they had requested more time to review the proposed plat. He said there were also some issues that they still needed to work out. He said they are progressing on it and have had a chance to review it and they have no hesitation in allowing this to move forward through the subdivision process.

Mr. Bradley asked the Planning Commission to consider the motion on this application to amend P.U.D. application #791. There are a few things that need to be addressed as are listed in the Staff evaluation and those things need to be completed prior to recording the plat.

Clyde Price came forward and stated that the attorneys had met, everything looked good as far as the parking, and they have worked out a maintenance agreement. He said he is happy with it and he thought the other party was happy with it. One of the issues is a power line that has to be elevated to 16-feet and how to do that has been resolved. There is a shed on his property that has to come down. He said if they can get this done before it gets cold they can pour concrete down his alleyway. He stated that he thought everything had been addressed.

MOTION: A motion was made by Barbara Poelman that application #3037 be approved and forwarded to the City Planner acting as the Land Use Authority, based on the stipulations that it must comply with the Staff evaluation, must comply with Chapter 25 Subdivisions, must comply with Chapter 29 Zoning, and that it also amend P.U.D. application #791, based on the findings of fact that the applicant will comply with the Staff evaluation and that such use will not under that circumstances of the particular case be detrimental to the health, safety, or general welfare to persons residing or working in the vicinity or injurious to property or improvements in the vicinity and the application complies with the General Plan. The motion was seconded by Paul Fowler and passed unanimously.

**CONTINUATION OF APPLICATION #3058 / CHANGE OF ZONE FROM MU-160 TO R-1-10 / 700
NORTH HIGHLAND / JOHN W. PARSON:**

Mr. Bradley explained this application was postponed to allow more of a majority of the Planning Commission to be in attendance to discuss the information from the research in considering the request to formulate a recommendation. Staff tried to help provide further assistance with the General Plan information as well as the City ordinance when the General Plan was adopted, including the options in the consideration for this. This is a recommendation for a zone change which is consistent with the land use designation of the land use map but not consistent with a goal of the General Plan that talks about the hillsides and development on the hillsides. There are development issues that the applicant will have to address prior to development. Besides recommendations for approval or denial, Mr. Bradley said if the Planning Commission is supportive of development in that area, a third option could be that they recommend suggesting the applicant make separate application for a smaller boundary area rather than what is being proposed.

John Parson came forward and commented that what he is asking to be rezoned is consistent with the General Plan as is stated in the Staff comments. He said he did not think this to be the time or the process for the Planning Commission to designate to him what ought to be rezoned out of the parcel that has been identified by the General Plan to be capable of rezoning. He said, as stated in the Staff review, once the property is rezoned additional studies can be done to determine if the property is buildable. The slopes are well within the City ordinances and are much less steep than the Kotter Subdivision which is currently being developed. He said it is odd to him that this area has come under much more scrutiny than other areas that have just as significant impacts and issues to deal with as this does.

Mr. Bradley explained that the zoning is MU-160 and the General Plan shows the designated land use for that area as being hillside open space. During the General Plan public hearing process, Mr. Parson asked that his property be allowed to be developed similar to other properties along that area. A rectangular area below the power line was identified as being possibly designated as residential low density to accommodate the request of the applicant. There are inconsistencies with the goals of the General Plan for the hillside and an area that is being changed to address a request that was made at that time. He said the request is consistent with the land use map. One of the requirements for a zone change is that it has to be consistent with the General Plan and the General Plan is an advisory guide so the Planning Commission and City Council can determine whether or not it makes sense for a zone change to take place in a particular location. Once property is zoned, by State law property is vested to be developed as long as it meets the minimum standards. Property can be divided to meet the certain size of that zone even if it does not make sense to develop it that way. Mr. Bradley commented that if the Planning Commission was uneasy with this request, a denial would not deny the applicant from coming back with a zone change that would possibly make sense to develop areas without getting up into the hillsides further than it needs to; however, if the Planning Commission felt that the entire area could be developed, then that recommendation could move forward. Because of the nature of the General Plan, including the goals and the map, a recommendation could go either way and have supportive findings of fact.

MOTION: A motion was made by Roger Handy to forward to the City Council with recommendation for approval application #3058 with the findings of fact that it is a legitimate request under the zoning ordinance and zoning map and that the neighbors that appeared at the public hearing for this item were not opposed to the plan but only had concerns about how various items in the plan would be accomplished and that if the rezoning is approved by the City Council, the developer will still have to meet development standards as currently outlined by our laws and ordinances before development can take place, and that such use will not

under the circumstances of the particular case be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity, and that the application does comply with the General Plan. The motion was seconded by Deon Dunn.

Roll Call:

Paul Fowler – Aye

Deon Dunn – Aye

Barbara Poelman – Nay

Lynda Berry - Aye

Roger Handy – Aye

The motion passed 4 to 1.

DISCUSSION:

APPLICATION #3008 / CONDITIONAL USE PERMIT – CHAD THOMPSON:

This application was placed on the agenda for review due to neighboring property owners complaining that some things on the project were not being done according to the conditions set forth in the approval. Mr. Bradley explained that Jared Johnson, Community Development Manager, had met with Karla McArthur, a neighboring property owner, and discussed with her the concerns she had. Mr. Bradley presented the approved plans and explained the sidewalk on the northeastern L-shaped segment of the parking lot was not poured to increase the width of landscape, which meets the minimum standard of 5-feet and is closer to what was originally anticipated for that area. The sidewalk along the north is installed. Between the two 4-plexes on the north, there is a grade difference where the gazebo would be. One of the solutions being discussed is the elimination of the gazebo and potentially enclosing the picnic area with a 3-foot gated fence to create a play area or redesigning the detention basin and does have a scary drop-off. The detention basin will be redesigned to be underground and will not quite level out the area, there will be a slight slope to the area but will increase the recreation area for children. Mr. Bradley said Mr. Johnson had discussed with Mr. Thompson the potential of extending the sidewalk out to provide some safety of not having to go up the driveway to get into the complex.

The differences between the plan the Commissioners had reviewed and the approved plan were discussed. The parking lot is wider by at least 2-feet which shifted the building to be further away from the neighboring property owner than the original plan. The change to the sidewalk area by Ms. McArthur's property came about by the overall widening of the parking lot that was done to make the dumpster area more functional; those design changes went to the minimum standard of 5-feet. Mr. Thompson is willing to not put the sidewalk in, in that area, so it would increase that area to 9-feet to make it easier to have the landscape barrier there. The trees in that area cannot get too tall due to the overhead power line; the type and caliper of trees that were approved are recorded in the minutes. The sidewalk for the southwest corner building is right up against the building. The previous plan showed that building to have a landscape area of not quite 5-feet. The intent of the ordinance with shifting that building further west was to not create a landscape barrier between the parking lot and the buildings but the exterior area. Mr. Bradley commented that a text amendment would be good to clarify what the intent is so that language reads more clearly.

Ms. Poelman asked how involved the Planning Commission needed to be so they are aware of things being carried out as approved or when changes are made. Ms. Berry commented that in the original packets they received for this application showed that they did receive notification of the change between the buildings. Mr. Bradley replied that, on permits, the Staff has allowance to adjust things as long as the minimum standards are being met. Mr. Fowler commented that the area by the McArthur's became sensitive because one of the things to mitigate between the two parties was some type of

barrier to help with sound and sight. He said one of the species of trees specified, such as the Subalpine Fir, is something that will not grow over 14 to 15-feet tall when it is mature, which would enhance Mr. Thompson's property, provide the barrier Ms. McArthur was looking for and help with the power line issue. Mr. Bradley pointed out that with conditional uses; conditions are put on the application to alleviate the impact, as Mr. Fowler pointed out, with the conditions set forth on the trees. Mr. Fowler reviewed the specific conditions that were set forth in the motion. Mr. Bradley commented that a copy of the minutes is put into the conditional use permit.

Mr. Handy commented that maybe they all could learn from this experience. Part of the problem seemed to be that after concerns are stated at a public hearing and the application is approved, if changes are made by Staff, the people who voiced concerns at the public hearing are not informed of those changes which makes them feel as if their concerns fell on deaf ears. Mr. Handy suggested learning from that and when changes are made, including those who expressed the most concern into the process to inform them of those changes. Mr. Bradley suggested that it is important to make sure a copy of the approved minutes is present when the plan has its final review.

Ms. Berry commented that Mr. Thompson had said throughout the entire process that he would consider this-or-that but never really committed, according to the minutes, to do many of the things that the Planning Commission had perhaps thought he had committed to do. She said she thought the Commission should really understand what developers are really committing to do.

Karla McArthur came forward and stated that there was one area that she felt had not been addressed that she and Mr. Johnson had discussed. She said it was felt that the way the retention wall ends was probably not good and felt strongly that the retention wall should go all the way in and there should be stairs going down to the street but that had not yet been discussed with the developer. She said she felt that all the changes were made and a lot of errors were made which is something she will have to live with the rest of her life.

Brent Wyatt came forward and thanked each of the Planning Commissioners for taking time to listen to them. He said they realized mistakes are made by everyone and not everything can be caught. He said they hope that the next time a project like this one comes in and instead of taking a piece of property and trying to maximize what is put on that piece of property, to really look at it. According to the mission statement of Brigham City, where they are trying to make things better, this did not happen, in his opinion. He said things can be corrected and if they would at least look into it, in further use, he would appreciate it.

Darlene Wyatt came forward and stated that she knew that Mr. Thompson was not present when she commented earlier in the meeting when she pointed out from the minutes the instances when he said he was willing to work with them, make the best for everyone, understood their concerns, did not want to work against them or the City, and was trying to make it the best he could for all of them. She said her concern was the safety issue of him not continuing the retention wall and not having a fence go completely across there. If he does not have the dip for the retention pond there, that will be a place where children will play and where balls, kids, and things will be going down onto 500 West which is very much a busy street. She said if he is so willing to work with you guys, she would like to see him show it by his actions rather than the actions he has already shown that he is not willing to work with them. She said she felt bad that the City Staff put the Planning Commission in the position that they are in. She said it is disappointing and they need to think twice about the zoning change that was presented at this meeting because of the fact she recalled Mr. Thompson stating that because it is zoned that way it has to be allowed. She asked what will stop a developer from coming in and stating that because of the zoning, it has to be allowed to be developed that way.

Chad Thompson came forward and said he would like to know what the mistakes are that were made as far as the approved plan and what he deviated from. He said in many cases he could see that this

had added to the safety issue and the overall wellbeing. Looking back, the side hill from the back of the curb went straight up so people at that busy intersection had to drive past the stop sign to see the oncoming traffic; now they can actually stop behind the stop sign and see the traffic. He said, in regards to the changes that were made, he knew that Ms. McArthur had that first preliminary draft. He said when a parking lot is stretched, it has to grow and they went to the minimum setbacks and worked with her in eliminating the sidewalk there so now she actually has more room than what the plan had shown. As far as other safety issues, he said he talked to Mr. Johnson about that and there is going to be a fence around that side so no children can get down to that area. He said he also talked to him about having stairs come up through there but one of his main concerns is that he wants to block all that area off of that side hill because he does not want to worry about kids going down to the busy road, he would rather they go all the way around and go down the sidewalk to get to traffic.

Mr. Thompson commented that he had taken in a lot of concerns and there are certain things that have cost him a lot more money to make it better, the detention pond being one of them. He said he had Hansen's design the detention pond which did not work out and now he is spending a fortune putting it all underground to make a more flat surface for children and people to play on. He commented that the parking lot is an example of how things change when they are moved around. He said Ms. McArthur had the copy that was approved and nothing has deviated from that and said he was a little fuzzy on the mistakes that were made. In regards to the density of the zoning, Mr. Thompson said if the Planning Commission wants to change that they would need to change the R-M-15 zone because that is what it allows. He commented that Staff should be able to make some minimum requirements which is where the conditional use permit comes in. He said there are certain items he has been fighting such as the dumpster issue. He said no one wanted to see 20 garbage cans there so he put a dumpster in and that brought up a safety issue. He said there needs to be some give and take and it seemed that everything he has tried to do has come back to bite him; the parking lot was too small, so he stretched that out and now there are concerns that it is too close to the property line. He said he could go within 5-feet of her property and still be in compliance.

Mr. Fowler commented that one of the things that is to his advantage to work on and was part of this process was to mitigate between the parties to alleviate frustration and work with them, and just because something can be done does not necessarily mean it should be done. He reminded Mr. Thompson that he had expressed his intent to work with the parties involved to help them feel better about the project and what would happen between the property lines and if the changes that were being made had been made known to the adjoining property owners and the reason for those changes explained, there may not have been as much frustration. In regards to the changes Mr. Thompson said he was fuzzy about, they were told there would be a 7 to 10-foot space from the building to the detention basin and Mr. Fowler commented even though that is being addressed, it is an example of one of the items that raised concerns.

Mr. Thompson stated that he had been cooperative and helpful and is more than happy to show Ms. McArthur any concerns that she has. He said he had done everything as well as he could, according to plan, and felt he did the best job he could with the changes that had been made.

MOTION: A motion was made by Roger Handy to adjourn. The motion was seconded by Lynda Berry and passed unanimously.

The meeting adjourned at 8:35 p.m.

*This certifies that the regular meeting minutes of October 21, 2008 are a true and accurate copy
as approved by the Planning Commission on November 04, 2008.*

Signed: _____

Jeffery R. Leishman, Secretary